

## **Remarks**

### **I. Status of Claims**

Claims 1, 3, 8-14, and 17-21 are pending in the application. By this amendment, claims 1, 3-4, and 12-13 are amended. Claims 2, 5-7, and 15-16 are canceled without prejudice to and/or disclaimer of the subject matter therein. Claims 17-21 are newly added.

Claims 1-4, 6-12 and 14 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Inoue et al. (US 2001/0044042 A1) (hereinafter “Inoue”).

Claims 1-4, 6, 8-11 and 14 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Suenaga et al. (US 2002/0051902 A1) (hereinafter “Suenaga”).

Claims 1-4, 6, 8-11, 13 and 14 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Inoue et al. (US 6,872,485) (hereinafter “Inoue ‘485”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Pending Claims**

Claims 1-4, 6-12 and 14 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Inoue.

Claims 1-4, 6, 8-11 and 14 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Suenaga.

Claims 1-4, 6, 8-11, 13 and 14 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Inoue ‘485.

The Applicant respectfully submits that claim 1, the only independent claim, is patentable over the cited references at least because it recites, “...a spacing portion formed separately from the plurality of components which keeps a constant distance between portions of the plurality of components where the sealant is interposed,...” and “...wherein the spacing portion is formed along an outer periphery of the fuel cell unit outside of the sealant and the plurality of components...”

First, the Applicant respectfully submits that claim 1 is amended to include at least the limitations of originally and/or previously presented claim 7, which was neither rejected by Suenaga nor Inoue ‘485. Accordingly, claim 1 is allowable over both of these references.

Second, with respect to Inoue, this reference has a separator 14 that does not connect with the separator 16. The separator also does not act as a spacing portion. Further, the sealant, which hardens, is essential for maintaining the space in between the spacing portions.

In contrast to Inoue, by applying the sealant of the present application, which does not harden, the load of the clamping transfers to the sealant. Thus, the sealant deforms and the MEA can be over-compressed. This may also cause deformation of the MEA. Further, in the arrangement of the present application, the spacing portion is formed outside of the sealant, which does not harden. Consequently, when the load of the clamping transfers to the cell, the spacing portions maintain the space in between the portions of the plurality of components where the sealant is interposed. Therefore, inclination of the stack can be limited and/or prevented. Inoue does not disclose such an arrangement.

Therefore, the Applicant respectfully submits that, for at least these reasons, claim 1, as well as its dependent claims, are patentable over the cited references.

### III. Conclusion

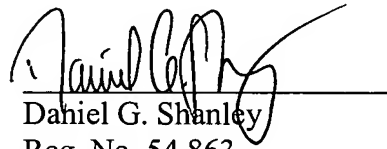
In light of the above discussion, Applicants respectfully submit that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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